

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

FILED

FEB 15 2002

U.S. DISTRICT COURT
ARLEN B. COYLE, CLERK
BY *[Signature]*
Deputy

JAKE AYERS, JR., ET AL.

PLAINTIFFS

UNITED STATES OF AMERICA

PLAINTIFF-INTERVENOR

V.

NO. 4:75CV009-B-D

RONNIE MUSGROVE, GOVERNOR, STATE OF
MISSISSIPPI, BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING,
ET AL.,

DEFENDANTS

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FINAL JUDGMENT

Before the court is the parties' April 23, 2001 joint motion for approval of a proposed settlement agreement dated March 29, 2001 (the Settlement Agreement). The parties have requested the court to approve the Settlement Agreement as being fair, reasonable, adequate and in the best interest of the Class. The parties have further requested entry of a Final Judgment.

By order entered May 8, 2001, the court directed that Notice of the Proposed Settlement of Class Action be issued to the Class and scheduled a hearing for a determination regarding the fairness of the Settlement Agreement. The order established a procedure by which every resident citizen of the State, including Class Members, could present their positions on the proposed Settlement Agreement to the court. The order further directed the parties to make submissions to the court in support of the proposed Settlement Agreement. The court conducted the hearing regarding the Settlement Agreement on September 4, 5 and 6, 2001. Thereafter, by order entered January 2, 2002, the court addressed the evidence heard in support of and in opposition to the

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proposed Settlement Agreement. In the order, the court expressed the desire "to receive a concurrent resolution or similar statement on the record from the Mississippi State Legislature, indicating whether the Legislature endorses the [Settlement Agreement] and agrees to fund it on the terms called for, or, alternatively, prefers the continuation of the Court Plan." The court has received such a concurrent resolution evidencing the Legislature's support of the Settlement Agreement.

It is a matter of public record that the Court Plan to end this case, under implementation since 1995, has an end-game different from the Settlement Plan under consideration. However, if the State of Mississippi through its elected representatives, the policymakers of the State, wants to go further in the enhancements to the historically black institutions than called for by the court--and they have advised the court they do--then their actions will be given precedence. It is not illegal to do more than that required by the Constitution. It does raise the question of how the policymakers of the State choose to allocate the State's resources.

It appearing to the court, therefore, that Final Judgment should be entered approving the proposed Settlement Agreement consistent with the court's January 2, 2002 order and other proceedings before this court regarding the Agreement, it is **ORDERED AND ADJUDGED:**

1. That this proceeding is a class action certified on September 17, 1975, pursuant to Federal Rule of Civil Procedure 23(b)(2) with the Class defined as follows:

All black citizens residing in Mississippi, whether students, former students, parents, employees or taxpayers, who have been, are, or will be discriminated against on account of race in receiving equal educational opportunity and/or equal employment opportunity in the universities operated by [the] Board of Trustees [of State Institutions of Higher Learning].

The certification of this proceeding as a class action pursuant to Rule 23(b)(2) is **AFFIRMED**.

2. The notice given to Class Members of the proposed Settlement Agreement and opportunities afforded them to make their positions known to the court satisfy the requirements of both Federal Rule of Civil Procedure 23 and due process. No Class Member has been permitted to opt out. The court has jurisdiction over the entire Class.

3. The original Settlement Agreement is on file with the Clerk. A true and correct copy of the Settlement Agreement is attached as exhibit A to this Final Judgment and is hereby fully incorporated herein by reference. All references in the Settlement Agreement to "other-race" at a historically black university are understood by all parties to refer to persons who are not black, as reflected in the transcript of the September 2001 hearing and by subsequent communication with the court.

4. As set forth in previous orders of the court, the Settlement Agreement affords the Class Members considerable relief in light of the established law of this case, the present stage of these proceedings and the range of possible recovery through further litigation, and is, in all respects, fair, reasonable, adequate and in the best interest of the Class. The Settlement Agreement is hereby finally **APPROVED**.

5. Those persons and entities allegedly entitled to share in the attorneys' fees addressed in sections VI(f) and IX of the Settlement Agreement have not yet agreed as to how those funds should be allocated. Such claimants shall have sixty (60) days from the date of entry of this Final Judgment to reach agreement on the allocation of such attorneys' fees and to so advise the court. Absent agreement by the interested parties, the court shall determine the allocation.

6. The defendants shall implement the Settlement Agreement as they have requested to

so do, including provision by the State of Mississippi of the funding designated in section VI and exhibit A to the Settlement Agreement.

7. The court's approval of the Settlement Agreement, including the commitments contained therein, establishes that the defendants, and the State of Mississippi, are in full compliance with the law. As a result, there are no continuing State policies or practices, or remnants traceable to *de jure* segregation, with present discriminatory effects which can be eliminated, altered or replaced with educationally sound, feasible and practical alternatives or remedial measures. This finding extends to all facets of this case and to all facets of public higher education under the direction, supervision or control of the Board of Trustees of State Institutions of Higher Learning.

8. The Settlement Agreement accomplishes a full, complete and final resolution of this controversy. Accordingly, (i) all claims set forth in the complaint, as amended, (ii) all claims set forth in the complaint-in-intervention, and (iii) all claims of racial discrimination asserted before the court throughout the pendency and trials of this action including, without limitation, claims of system or institutional aspects, features, policies and practices alleged to be remnants of the *de jure* system (see 879 F. Supp. at 1496, *et seq.*) are hereby **DISMISSED on the merits and with prejudice.**

Wherefore, this action is hereby **DISMISSED WITH PREJUDICE.**

ORDERED AND ADJUDGED this, the 15th day of February, 2002.


NEAL B. BIGGERS, JR.
SENIOR U. S. DISTRICT JUDGE